

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

DONALD C. HUTCHINS,	)	Civil Action 04-30126-MAP
	)	
Plaintiff,	)	Judge Michael A. Ponsor
	)	
v.	)	
	)	
CARDIAC SCIENCE, INC., et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR SANCTIONS**

On March 14, 2006, Plaintiff Donald C. Hutchins filed a Motion for Sanctions against Defendant Compliant Corporation and Colleen Moran O'Neil, one of Compliant's attorneys in this matter. Compliant and Ms. O'Neil hereby oppose Hutchins' frivolous motion. Hutchins' motion is the latest in a string of baseless and incomprehensible pleadings he continues to file in this case. In his current motion, Hutchins provides no evidence of sanctionable conduct on the part of Compliant or Ms. O'Neil, and simply uses his dispute with the merits of this case as a means to claim sanctionable conduct. Because Hutchins has failed to allege any objectionable conduct on the part of Compliant or Ms. O'Neil, his Motion for Sanctions should be denied.

Essentially, Hutchins seeks sanctions against Compliant and Ms. O'Neil for three reasons: (1) because Compliant, represented by Ms. O'Neil and other attorneys, filed a

declaratory judgment action in the Court of Common Pleas of Cuyahoga County, Ohio against Hutchins and CPR Prompt Corp. with regard to the proper interpretation of the license agreement that underlies this dispute (the “Ohio Matter”); (2) because Compliant sought **and was awarded** summary judgment in that action; and (3) because Compliant, represented by Ms. O’Neil and other attorneys, has asserted before this Court that the decision awarding summary judgment to Compliant, among other decisions, serves as *res judicata*, and disposes of, this case.

Hutchins’ argument, as best as can be ascertained by his unintelligible filing, is that sanctions should be imposed on Compliant and Ms. O’Neil simply because Compliant filed a Complaint against him in Ohio and because Ms. O’Neil further “pressed for” summary judgment against Hutchins in that matter. What Hutchins seems to forget, however, is that **Compliant prevailed in the Ohio Matter on summary judgment**. The actions of Compliant and Ms. O’Neil in prosecuting that cause of action, therefore, have been justified, and Hutchins has nothing to support an allegation that any of Compliant or Ms. O’Neil’s actions in Ohio were frivolous or unfounded. Moreover, even if Ms. O’Neil had engaged in some questionable conduct in Ohio, which she did not, this Court has no jurisdiction to impose sanctions against an attorney for filings made by that attorney in another jurisdiction. See Fed. R. Civ. P. 11 (referring to representations before this court).

Furthermore, the Ohio court issued a decision against Hutchins on the very same claims he has attempted to bring before this court. See Motion Requesting this Court to Take Judicial Notice of Decision of Cuyahoga County, Ohio, Court of Common Pleas. On August 24, 2005, the Ohio court issued a valid journal entry, finding against Hutchins with regard to the interpretation of the license agreement and finding for Compliant on all claims. The Ohio court then held a trial on damages and issued a Final Judgment Entry on September 29, 2005,

awarding Compliant damages, including punitive damages. See Final Judgment Entry, attached hereto as Exhibit A. Compliant's position that this decision, as well as an earlier decision of the Ohio court, serves as *res judicata* is accurate and has been fully briefed before this Court in Compliant's Motion for Summary Judgment. Furthermore, neither this Court, nor any other, has found that the decision in the Ohio Matter does **not** serve as *res judicata*. Accordingly, there is no basis for sanctions. Hutchins has provided no evidence of any sanctionable conduct on the part of Compliant or Ms. O'Neil.

For the foregoing reasons, Hutchins' Motion for Sanctions must be denied.

Respectfully submitted,

/s/ Jeffrey J. Lauderdale

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**CERTIFICATE OF SERVICE**

A copy of the foregoing Memorandum in Opposition to Motion for Sanctions was served, via the Court's electronic filing system, upon the following this 31st day of March, 2006.

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